HW

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,495	10/31/2003	Brian A. Leete	42P12031C	3174

8791	7590	04/29/2005

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EXAMINER
PERVEEN, REHANA

ART UNIT	PAPER NUMBER
2116	

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/699,495	LEETE, BRIAN A.
	Examiner	Art Unit
	Rehana Perveen	2116

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _15 October 2004_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-22_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-22_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _31 October 2003_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _10/15/04_.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____ .

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-22 are rejected under the judicially created doctrine of double patenting over claims 1-19 of U. S. Patent No. 6,721,815 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the

patent and is covered by the patent since the patent and the application are claiming

common subject matter, as follows: a host controller generating a transaction schedule

including a plurality of transactions stored in a plurality of data structures containing one

of initialized transactions and initialized and non-initialized transactions, the plurality of

data structures are isochronous transaction descriptors, wherein the host controller

executes the transactions that are initialized and the plurality of data structures each

contain a pointer to a next initialized transaction. In other words, all of the claimed

limitations of the present application are already included in the patented claims of the

parent application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under
section 122(b), by another filed in the United States before the invention by the
applicant for patent or (2) a patent granted on an application for patent by
another filed in the United States before the invention by the applicant for patent,
except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application
filed in the United States only if the international application designated the
United States and was published under Article 21(2) of such treaty in the English
language.

Claims 1-5, 7-10, 12-15, and 17-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Garney, Patent No. 6,349,354.

Garney was cited as prior art in the applicants' information disclosure statement, PTO-1449.

As to claims 1 and 17, Garney teaches a host controller to generate a transaction schedule, the transaction schedule including a plurality of transactions, the plurality of transactions are stored in a plurality of data structures, each of the plurality of data structures contain one of initialized transactions and initialized and non-initialized transactions (figure 3), wherein the host controller executes the transactions that are initialized and the plurality of data structures each contain a pointer to a next initialized transaction (col. 5 lines 1-40). Garney also teaches the plurality of data structures are isochronous transaction descriptors (iTDs, col. 6 line 13).

As to claims 2 and 18, Garney teaches a host controller driver coupled to the host controller (col. 8 lines 12-13).

As to claims 3 and 19, Garney teaches the iTDs are daisy-chained into a single classic frame (col. 5 lines 20-35).

As to claims 4, 9, 14, and 20, Garney teaches various physical buffer alignments

are produced by daisy chaining or in the transaction schedule (col. 5 lines 1-40).

As to claims 5, 10, 15, and 21, Garney teaches the host controller generates a

stream of buffers that begin in a middle of a classic frame (col. 5 lines 1-40).

As to claims 7 and 12, Garney teaches determining a starting micro-frame,

receiving buffer data, creating at least one iTD based on the starting micro-frame and

the buffer data, inserting the at least one iTD into a frame list, wherein the at least one

iTD contains one of initialized transactions and initialized and non-initialized

transactions (col. 2 lines 19-61 and col. 5 lines 1-40). Garney also teaches the iTDs are

daisy-chained into a single classic frame (col. 5 lines 20-35).

As to claims 8 and 13, Garney teaches initializing an offset and a length, and

initializing a buffer pointer (col. 2 lines 19-36 and col. 5 lines 20-25).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negatived by the manner in which the invention was made.

Claims 6, 11, 16, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garney, Patent No. 6,349,354.

As to claims 6, 11, 16, and 22, Garney teaches the host controller generates a plurality of buffers. However, Garney does not expressly teach the buffers that are variably sized. It would have been obvious for one of ordinary skill in the art at the time of the invention to utilize notoriously well known concept of variable sized buffers into Garney's system so that increased efficiency is achieved during movement of large amount of data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rehana Perveen whose telephone number is 571-272-3676. The examiner can normally be reached on Monday - Thursday 8:00am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on 571-272-3670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Rehana Perveen
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Technology Center 2100